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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,861	03/27/2000	Tibor Juhasz	11236.11MKH	3826

26271 7590 12/09/2003  
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EXAMINER
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SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 12/09/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-20 and 22-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in combination with Stern et al. Wagner et al teach forming an incision to expose the stroma and excising the underlying tissue using a laser. Stern et al teach the use of focused visible lasers to provide the stromal tissue removal patterns and shapes claimed. It would have been obvious to the artisan of ordinary skill to employ the laser of Stern et al to produce the incision of Wagner et al, since this would produce an extremely accurate incision as taught by Stern et al thus producing a method such as claimed.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in combination with Stern et al as applied to claim 12 above, and further in view of Bronstein. Bronstein teaches forming an interlocking feature, which can take the form of a tab to affix an implant to the cornea. It would have been obvious to the artisan of ordinary skill to form a structure as taught by Bronstein on the flap of Warner et al, since this would help affix the flap in place during healing, thus producing a method such as claimed.

Applicant's arguments with respect to claims 12-28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

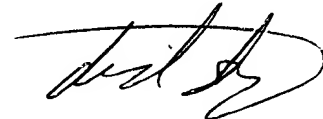
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Shay/DI

November 17, 2003



DAVID M. SHAY  
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GROUP 330